IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3222 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

UNMIKABEN R AMBASANA

Versus

STATE OF GUJARAT

Appearance:

MR GK PATEL for MR RK MISHRA for Petitioner

MS NANDINI JOSHI AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 16/02/2001

ORAL JUDGEMENT

1. In this petition filed under Article 226 of the Constitution the petitioner who has been appointed as an adhoc lecturer for 11 months in K.J. Polytechnic, Bharuch, or till a candidate selected by GPSC is available vide order dated June 3, 1992, Annexure A to the petition has voiced her grievance against the illegal

termination of her service.

2. As per the petitioner, she has been selected by the Selection Committee after calling her for interview and was appointed against a clear vacant post for a period of 11 months or till a candidate selected by GPSC is available. According to her say, she possessed the requisite qualification for the post in question and only the formal requirement of undergoing the selection by GPSC is not completed. It is the further case of the petitioner that the terms and conditions incorporated in the order appointing her on adhoc basis are contrary to provisions of section 33 (A) of the Bombay Civil Service Rules, therefore, she is in continuous service. She, therefore, prayed to quash and set aside the terms and conditions of appointment order appointing her for a period of 11 months only and thereafter to terminate her services by declaring the same to be unjust, arbitrary and unconstitutional and also further to declare the said terms and conditions contained in the order dated June 3, 1992 as null and void.

3. When the matter is called out, Mr. G.K. Patel, learned advocate for the petitioner whereas Ms. Nandini Joshi, learned AGP for the respondents are present.

4. Ms. Joshi, learned A.G.P. on instructions received from Mr. Upadhyaha, Deputy Director of Technical Education, states that by virtue of the ad-interim relief granted by this Court the petitioner was continued in services upto 13.11.1995, and, therefore, she has resigned from the post by tendering her resignation on 13.11.1995 which has been accepted by the department and, therefore, she is no more in service now. She, therefore, states that the petition has become infructuous and it may be disposed of accordingly for passing appropriate order in that regard.

5. Mr. Patel, learned counsel for the petitioner, states that after the matter was admitted, he has no instruction in the matter from the petitioner and, therefore, appropriate order may be passed in the matter in view of the statement made by Ms. Joshi, learned A.G.P.

6. I have considered the submissions advanced by the learned counsel appearing for the parties and perused the averments made in the petition as well as the impugned order. On having perusal of the impugned order dated June 3, 1992 at Annexure A it appears that the petitioner has been appointed on purely adhoc basis for a period of

11 months. By the said order six lecturers were appointed in different polytechnics situated in various parts of Gujarat and the petitioner is appointed at K.J. Polytechnic, Bharuch and her name figured in the said appointment order at Sr.No.4. It may be appreciated that during the continuation of the aforesaid period of her appointment the petitioner has filed this petition. It is made clear from the above that the petitioner was appointed as a lecturer purely on adhoc basis for 11 months but she has filed the petition after ten months, that is, before the expiry of the period of 11 months, and obtained ad-interim relief and by virtue of the ad-interim relief granted by this Court she was continued in service till the date of submission of her resignation. As per statement made by the learned A.G.P. the petitioner has already tendered her resignation on 13.11.1995 which has been accepted by the department and, therefore, it is obvious that she is no more in service and the petition has now become infructuous.

7. For the foregoing reasons, the petition fails and accordingly it is rejected. Rule is discharged with no order as to costs. Ad-interim relief granted by this Court earlier stands vacated.

(A.M. Kapadia, J.)

(karan)